

### REMARKS

Reconsideration and allowance of this application are respectfully requested in light of the above amendments and the following remarks.

The title has been amended to overcome the objection thereto.

Claims 1-13 have been canceled in favor of new claims 14-25. Support for the subject matter of claims 14-25 is provided in the original claims. More specifically, claim 14 recites features of original claims 1 and 9 and claims 15-25 recite features of original claims 2-8 and 10-13, respectively. The new claims have been drafted to avoid the issue underlying the indefiniteness rejection applied to claim 10.

Claims 1 and 3-13 were rejected, under 35 USC §102(a), as being anticipated by McChesney (IEEE publication). Claim 2 was rejected, under 35 USC §103(a), as being unpatentable over McChesney. To the extent these rejections are deemed applicable to new claims 14-25, the Applicants respectfully traverse based on the following points.

McChesney discloses a transmission side apparatus that determines parameters (e.g., power and rate) for data retransmission based on a received retransmission request and reported reception quality. However, McChesney does not disclose

that the transmission side apparatus (1) detects a capacity necessary for demodulation by the receiving side apparatus based on the reported reception quality and (2) determines a capacity for data retransmission based on the detected demodulation capacity and traffic conditions, as recited in independent claims 14 and 23-25.

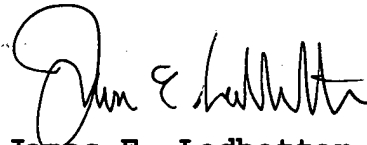
For the invention defined by independent claims 14 and 23-25, a transmission side apparatus recognizes a capacity necessary for demodulation at a receiving side apparatus and determines a capacity for data retransmission, taking the recognized demodulation capacity and traffic conditions into consideration. Therefore, the claimed invention may optimize the selected retransmission capacity so as to reduce the number of retransmissions required to communicate information and thereby improve the transmission efficiency.

Accordingly, the Applicants respectfully submit that McChesney does not anticipate the subject matter defined by claims 14 and 23-25. Therefore, allowance of claims 14 and 23-25 and all claims dependent therefrom is warranted.

In view of the above, it is submitted that this application is in condition for allowance and a notice to that effect is respectfully solicited.

If any issues remain which may best be resolved through a telephone communication, the Examiner is requested to telephone the undersigned at the local Washington, D.C. telephone number listed below.

Respectfully submitted,



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